HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.10234 of 2007

Dated:30.07.2007

Between:

Kurukuri Veera Venkata Satyanarayana.

…Petitioner.

and

The Special Cadre Deputy Registrar/Officer on Special Duty and others.

…Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.10234 of 2007

ORDER:

The petitioner is the Member of Raghunayaka Co-operative Rural Bank Limited, Chinnayagudem, Devarapalli Mandal, West Godavari District, the 2nd respondent herein. He obtained 5 loans of different categories and amounts. Since he did not repay the loans, the

2nd respondent approached the 1st respondent, under Section 71 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act'), for grant of recovery certificate. The 1st respondent, in turn, issued recovery certificates of different dates, for the 5 loans. Thereafter, the proceedings were initiated for effecting the sale of properties, in execution of sale certificates. The petitioner challenges the proceedings, initiated against him, on several grounds. One of the points urged by the petitioner is that the procedure under the

provisions of the Act, cannot be invoked by the Co-operative Urban Banks and that the 2nd respondent has to approach the Debt Recovery Tribunal. Reliance is placed upon a judgment rendered by a Full Bench of this Court in ***M.BABU RAO v. DEPUTY REGISTRAR/OSD, VASAVI CO-OPERATIVE BANK LIMITED***[1].

On behalf of the 2nd respondent, a counter-affidavit is filed. It is stated that the petitioner became defaulter and left with no alternative, proceedings were initiated against him.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

One of the main contentions urged on behalf of the petitioner is that the 2nd respondent cannot invoke the procedure under Section 71 of the Act. This is based upon the judgment rendered by a Full Bench of this Court in **M.Babu Rao**'s case (supra). However, it is not in dispute that the said judgment has since been reversed by the Supreme Court in ***GREATER BOMBAY COOPERATIVE BANK LIMITED v. UNITED YARN TEX.PVT.LTD***[2]. Therefore, it cannot be held that the 1st respondent has no jurisdiction to issue recovery certificates, in exercise of power under Section 71 of the Act.

Submissions are made touching upon the merits of the matter. The petitioner had an effective alternative remedy, by way of an appeal, under Section 76 of the Act, before the Debt Recovery Tribunal. While the petitioner was prosecuting the remedies by way of writ petition, the period of limitation has expired. This Court is of the view that ends of justice would be met, if the petitioner is required to pay certain amount, as condition precedent for preferring the appeal and by permitting him to present the same within a particular time.

Hence, the Writ Petition is disposed of, leaving it open to the

petitioner, to avail the remedy of appeal against the recovery certificates in question. In case, the petitioner presents the appeal within four weeks from today, it shall be entertained, as having been presented within the period of limitation. Learned counsel for the petitioner had handed over two demand drafts, for a sum of Rs.60,000/-, in all, to the learned Standing Counsel for the respondents. In view of this payment, the further proceedings of the recovery certificates in question shall stand stayed, till disposal of the appeal. The Tribunal shall endeavour to dispose of the appeal as early as possible. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.30-07-2007.
GJ

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[1] 2005 (4) ALT 327 (F.B.)
[2] 2007 (3) SCJ 415